

Subpart B—Special Requirements for Revolving Loan Funds and Use of Grant Funds

§ 307.7 Revolving Loan Funds established for business lending.

Economic Adjustment Assistance Grants to capitalize or recapitalize RLFs most commonly fund business lending, but may also fund public infrastructure or other authorized lending activities. The requirements in this subpart B apply to RLFs established for business lending activities. Special award conditions may contain appropriate modifications of these requirements to accommodate non-business RLF awards.

§ 307.8 Definitions.

In addition to the defined terms set forth in § 300.3 of this chapter, the following terms used in this part shall have the following meanings:

Closed Loan means any loan for which all required documentation has been received, reviewed and executed by an RLF Recipient.

Exempt Security means a Security that is not subject to certain SEC or Federal Reserve Board rules.

Prudent Lending Practices means generally accepted underwriting and lending practices for public loan programs, based on sound judgment to protect Federal and lender interests. Prudent Lending Practices include loan processing, documentation, loan approval, collections, servicing, administrative procedures, collateral protection and recovery actions. Prudent Lending Practices provide for compliance with local laws and filing requirements to perfect and maintain a security interest in RLF collateral.

Recapitalization Grants are Investments of additional Grant funds to increase the capital base of an RLF.

Reporting Period, for purposes of this subpart B only, means the period from April 1st to September 30th or the period from October 1st to March 31st.

Revolving Phase means that stage of the RLF's business lending activities that commences immediately after all Grant funds have been disbursed to the RLF Recipient.

RLF Capital means Grant funds plus Local Share plus RLF Income, less any

amount used for eligible and reasonable costs necessary to administer the RLF and any amount of loan principal written off.

RLF Income means interest earned on outstanding loan principal and RLF accounts holding RLF funds (excluding interest earned on excess funds pursuant to § 307.16(c)(2)), all fees and charges received by the RLF, and other income generated from RLF operations. An RLF Recipient may use RLF Income only to capitalize the RLF for financing activities and to cover eligible and reasonable costs necessary to administer the RLF, unless otherwise provided for in the Grant agreement or approved in writing by EDA. RLF Income excludes repayments of principal and any interest remitted to the U.S. Treasury pursuant to § 307.16(c)(2)(i).

RLF Third Party, for purposes of this subpart B only, means an Eligible Recipient or for-profit entity selected by EDA through a request for applications or Cooperative Agreement to facilitate or manage the intended liquidation of an RLF.

Sale means an EDA-approved sale by an RLF Recipient of its RLF loan portfolio (or a portion thereof) to a third party. A third party may participate in a subsequent Securitization offered in a secondary market transaction and collateralized by the underlying RLF loan portfolio (or a portion thereof).

SEC or the *Commission* means the U.S. Securities and Exchange Commission.

Securitization refers to the financing technique of securing an investment of new capital with a stream of income generated by aggregating similar instruments such as loans or mortgages into a new transferable Security.

Security means any investment instrument issued by a corporation, government or other organization which offers evidence of debt or equity.

[71 FR 56675, Sept. 27, 2006, as amended at 73 FR 62867, Oct. 22, 2008; 75 FR 4264, Jan. 27, 2010]

§ 307.9 Revolving Loan Fund Plan.

All RLF Recipients shall manage RLFs in accordance with an RLF plan (the “*RLF Plan*” or “*Plan*”) as described in this section. The Plan shall be submitted in electronic format to

EDA for approval, unless EDA approves a paper submission.

(a) *Format and content.*

(1) Part I of the Plan titled “Revolving Loan Fund Strategy” shall summarize the Region’s CEDS or EDA-approved economic development plan, if applicable, and business development objectives, and shall describe the RLF’s financing strategy, policy and portfolio standards.

(2) Part II of the Plan titled “Operational Procedures” must serve as the RLF Recipient’s internal operating manual and set out administrative procedures for operating the RLF consistent with “Prudent Lending Practices,” as defined in §307.8, and EDA’s conflicts of interest rules set out in §302.17 of this chapter.

(b) *Evaluation of RLF Plans.* EDA will use the following criteria in evaluating Plans:

(1) The Plan must be consistent with the CEDS or EDA-approved economic development plan, if applicable, for the Region.

(2) The Plan must identify the strategic purpose of the RLF and must describe the selection of the financing strategy and lending criteria, including:

(i) An analysis of the local capital market and the financing needs of the targeted businesses; and

(ii) Financing policies and portfolio standards that are consistent with EDA policies and requirements; and

(3) The Plan must demonstrate an adequate understanding of commercial loan portfolio management procedures, including loan processing, underwriting, closing, disbursements, collections, monitoring, and foreclosures. It shall also provide sufficient administrative procedures to prevent conflicts of interest and to ensure accountability, safeguarding of assets and compliance with Federal and local laws.

(c) *Revision and Modification of RLF Plans.*

(1) An RLF Recipient must update its Plan as necessary in accordance with changing economic conditions in the Region; however, at a minimum, an RLF Recipient must submit an updated Plan to EDA every five (5) years.

(2) An RLF Recipient must notify EDA of any change(s) to its Plan. Any

material modification, such as a merger or change in the EDA-approved lending area under §307.18, a change in critical management staff, or a change to the strategic purpose of the RLF, must be submitted to EDA for approval prior to any revision of the Plan. If EDA approves the modification, the RLF Recipient must submit an updated Plan to EDA in electronic format, unless EDA approves a paper submission.

[71 FR 56675, Sept. 27, 2006, as amended at 73 FR 62867, Oct. 22, 2008; 75 FR 4264, Jan. 27, 2010]

§ 307.10 Pre-loan requirements.

(a) RLF Recipients must adopt procedures to review the impacts of prospective loan proposals on the physical environment. The Plan must provide for compliance with applicable environmental laws and other regulations, including but not limited to parts 302 and 314 of this chapter. The RLF Recipient must also adopt procedures to comply, and ensure that potential borrowers comply, with applicable environmental laws and regulations.

(b) RLF Recipients must ensure that prospective borrowers, consultants, or contractors are aware of and comply with the Federal statutory and regulatory requirements that apply to activities carried out with RLF loans. RLF loan agreements shall include applicable Federal requirements to ensure compliance and RLF Recipients must adopt procedures to diligently correct instances of non-compliance, including loan call stipulations.

(c) All RLF loan documents and procedures must protect and hold the Federal government harmless from and against all liabilities that the Federal government may incur as a result of providing an RLF Grant to assist directly or indirectly in site preparation or construction, as well as the direct or indirect renovation or repair of any facility or site. These protections apply to the extent that the Federal government may become potentially liable as a result of ground water, surface, soil or other natural or man-made conditions on the property caused by operations of the RLF Recipient or any of its borrowers, predecessors or successors.